

Board of Chiropractic Examiners

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**NOTICE OF PUBLIC MEETING – CORRECTED TIME**

Notice is hereby given that a meeting of the Legislative Committee of the Board of Chiropractic Examiners will be held as follows:

March 27, 2008
8:30 a.m.
Hearing Room
400 R Street, Room 101
Sacramento, CA 95814

AGENDA**CALL TO ORDER****Discussion and Possible Action:**

- Assembly Bill 450

Discussion and Possible Action:

- Assembly Bill 1861

Discussion and Possible Action:

- Senate Bill 1402

PUBLIC COMMENT**NEW BUSINESS – Future Agenda Items****ADJOURNMENT****LEGISLATIVE COMMITTEE**

Hugh Lubkin, D.C., Chair
Frederick Lerner, D.C.

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting is accessible to the physically disabled. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

BILL NUMBER: AB 450 AMENDED
BILL TEXT

AMENDED IN SENATE MARCH 3, 2008

INTRODUCED BY Assembly Member ~~Strickland~~
Emmerson

FEBRUARY 20, 2007

~~An act to amend Section 2150.4 of the Fish and Game Code, relating to fish and game.~~ An act to make an appropriation in augmentation of the Budget Act of 2007, relating to the state budget, to take effect immediately as an appropriation for the usual current expenses of the state.

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as amended, ~~Strickland~~ Emmerson
~~Wild animal facilities: inspection.~~
State Board of Chiropractic Examiners.

Existing law, the Chiropractic Act, enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners. The Budget Act of 2007 appropriated specified amounts from the State Board of Chiropractic Examiners' Fund to the board.

This bill would appropriate \$1,542,000 from the State Board of Chiropractic Examiners' Fund, in augmentation of the appropriation to the board in the Budget Act of 2007, which may be expended if specified conditions are met, and would declare the Legislature's intent that protection of the public is the highest priority of the board. This bill would declare that it is to take effect immediately as a statute providing for the usual current expenses of the state.

~~Existing law requires the Department of Fish and Game or an eligible local entity to inspect the wild animal facilities of each person holding a permit issued pursuant to existing provisions authorizing the possession of a wild animal, and requires the department, if the department elects not to inspect every wild animal facility, in cooperation with a specified committee, to develop, implement, and enter into memorandums of understanding with eligible local entities, no later than January 1, 2007.~~

~~This bill would extend this date from January 1, 2007, to January 1, 2009.~~

Vote: majority. Appropriation: ~~no~~ yes

Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature hereby finds and declares that, in order to promote consumer protection and public safety, the State Board of Chiropractic Examiners is, and has been, working cooperatively with the Department of Consumer Affairs, the California Attorney General's Office, and other applicable agencies.

(b) It is the intent of the Legislature that protection of the public shall be the highest priority for the State Board of

Chiropractic Examiners in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. (a) The sum of one million five hundred forty-two thousand dollars (\$1,542,000) is hereby appropriated from the revenue in the State Board of Chiropractic Examiners' Fund that consists of fees paid for the issuance and renewal of licenses, for expenditure for the 2007-08 fiscal year in augmentation of Item 8500-001-0152 of Section 2.00 of the Budget Act of 2007 for the support of the State Board of Chiropractic Examiners.

(b) Moneys appropriated in subdivision (a) may be expended only if both of the following conditions are met:

(1) The board continues the existing contract for services provided by the Department of Consumer Affairs to the State Board of Chiropractic Examiners through June 30, 2008. These services include, but are not limited to, legal counsel and personnel administration services. Legal counsel shall assist the board to create an effective investigation and enforcement program. Personnel administrative services include assisting the board to examine, recruit, and appoint investigators and inspectors employed by the board.

(2) The board utilizes legal counsel pursuant to Section 11040 of the Government Code.

SEC. 3. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

~~SECTION 1. Section 2150.4 of the Fish and Game Code is amended to read:~~

~~2150.4. (a) Consistent with Section 3005.91, the department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.~~

~~(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2.~~

~~(c) No later than January 1, 2009, the department, in cooperation with the committee created pursuant to Section 2150.3, shall develop, implement, and enter into memorandums of understanding with eligible local entities if the department elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b). Eligible local entities shall meet the criteria established in regulations adopted pursuant to subdivision (b) of Section 2157.~~

Bill Number: AB 450
Introduced: February 20, 2007

Author: Emmerson
Vote: Majority

Bill Summary:

This bill would add \$1,542,000 to the Board of Chiropractic Examiners (BCE) current budget, provided certain conditions are met.

Purpose of the Bill:

This bill is intended to provide the necessary funding to the BCE to promote consumer protection and public safety.

Current Budget:

The Budget Act of 2007 appropriated \$1, 500,000 to the BCE's budget.

Specifically, this bill would:

- Increase the BCE's current year budget by \$1,542,000.
- Require the BCE to continue to contract for services provided by the Department of Consumer Affairs through June 30, 2008. These services include legal counsel and personnel administrative services.
- Require the BCE to utilize legal counsel through the Attorney General Office for the representation of judicial and other proceedings (Government Code Section 11040).

Staff Recommendation:

The BCE staff recommends a support position.

BILL NUMBER: AB 1861 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Emmerson

JANUARY 31, 2008

An act to add Section 1000.5 to the Business and Professions Code, relating to chiropractors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1861, as introduced, Emmerson. State Board of Chiropractic Examiners.

Existing law, the Chiropractic Act, enacted by initiative, provides for the licensing and regulation of chiropractors by the State Board of Chiropractic Examiners.

This bill would appropriate \$539,000 from the State Board of Chiropractic Examiners' Fund for purposes of the Chiropractic Act, as specified, and would declare the Legislature's intent that protection of the public is the highest priority of the board.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares that, in order to promote consumer protection and public safety, the State Board of Chiropractic Examiners is and has been working cooperatively with the Department of Consumer Affairs, the California Attorney General's Office, and other applicable agencies.

SEC. 2. Section 1000.5 is added to the Business and Professions Code, to read:

1000.5. It is the intent of the Legislature that protection of the public shall be the highest priority for the State Board of Chiropractic Examiners in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 3. In addition to the appropriation made by Item 8500-001-0152 of Section 2.00 of the Budget Act of 2007, the sum of five hundred thirty-nine thousand dollars (\$539,000) is hereby appropriated from the revenue in the State Board of Chiropractic Examiners Fund that consists of fees paid for the issuance and renewal of licenses, for the support of the State Board of Chiropractic Examiners.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that necessary funds for the regulation of chiropractors are transferred to the State Board of Chiropractic Examiners in a timely manner, it is necessary that this act take

effect immediately.

Bill Number: AB 1861
Introduced: January 31, 2008

Author: Emmerson
Vote: 2/3

Bill Summary:

This bill would add \$1,500,000 to the Board of Chiropractic Examiners (BCE) current budget.

Purpose of the Bill:

This bill is intended to provide the necessary funding to the BCE to promote consumer protection and public safety.

Current Budget:

The Budget Act of 2007 appropriated \$1, 500,000 to the BCE's budget.

Staff Recommendation:

The BCE staff recommends a support position.

BILL NUMBER: SB 1402 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Corbett

FEBRUARY 21, 2008

An act to amend Sections 27, 801, 802.1, and 1005 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1402, as introduced, Corbett. Reporting requirements.

Existing law, the Chiropractic Act, a statute enacted by initiative, creates the State Board of Chiropractic Examiners, which licenses and regulates the practice of chiropractic. Existing law requires certain entities within the Department of Consumer Affairs and the Department of Real Estate to provide information, excluding personal information, on the Internet relative to the status of every license issued by the entity, as specified. Existing law requires certain health care providers to report to their licensing boards the bringing of an indictment or information charging a felony against them or their conviction of a felony or misdemeanor. Existing law requires insurers providing professional liability insurance to certain health care professionals to send a complete report to the applicable licensing entity as to any settlement or arbitration award meeting certain criteria.

This bill would expand the information that the specified licensing entities are required to disclose to the public on the Internet information to include information regarding licensees convictions of a misdemeanor or felony, and would add the Board of Chiropractic Examiners to the entities required to provide the licensing status information. The bill would require a chiropractor to report to the Board of Chiropractic Examiners the bringing of an indictment or information charging a felony against them or their conviction of any felony or misdemeanor. The bill would also require an insurer providing professional liability insurance to a chiropractor to send a complete report to the Chiropractic Examiners Board, as specified, of any settlement or arbitration award of over \$2,000 of a claim or action for damages meeting certain criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b) ~~on or after July 1, 2001,~~ shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on conviction s

of licensee s of the entity of a misdemeanor or felony, and shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Board shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

(3) The Dental Board of California shall disclose information on its licensees.

(4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of ~~their~~ its licensees.

(5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.

(6) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(7) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(8) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(9) The Cemetery ~~Program~~ and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.

(10) The ~~Funeral Directors and Embalmers Program~~ Cemetery and funeral Bureau shall disclose information on its licensees, including embalmers, funeral establishments, and funeral directors.

(11) The Contractors' State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related

to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(12) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(13) *The Board of Chiropractic Examiners shall disclose information on its licensees.*

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

SEC. 2. Section 801 of the Business and Professions Code is amended to read:

801. (a) Except as provided in Section 801.01 and subdivisions (b), (c), ~~and~~ (d), and (e) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980) or Chapter 14 (commencing with Section 4990) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) *Every insurer providing liability insurance to a chiropractor licensed pursuant to the Chiropractic Act shall send a complete*

report to the Board of Chiropractic Examiners of any settlement or arbitration award over two thousand dollars (\$2,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

~~---(e)~~

(f) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by ~~subdivision (a), (b), or (c)~~ this section has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

~~---(f)~~

(g) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. ~~This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.~~

SEC. 3. Section 802.1 of the Business and Professions Code is amended to read:

802.1. (a) (1) A physician and surgeon, an osteopathic physician and surgeon, ~~and~~ a doctor of podiatric medicine, and a chiropractor shall report either of the following to the entity that issued his or her license:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars (\$5,000).

SEC. 4. Section 1005 of the Business and Professions Code is amended to read:

1005. The provisions of Sections 12.5, 23.9, 27, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 490.5, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716, 730.5, 731, 801, 802.1, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners under the Chiropractic Act.

Bill Number: SB 1402
Introduced: February 21, 2008

Author: Corbett
Vote: Majority

Bill Summary:

This bill would require the Board of Chiropractic Examiners (BCE) to disclose, via the Internet, licensing status information and conviction of a misdemeanor or felony. The bill would require a chiropractor to report to the BCE the bringing of an indictment or information of charges or convictions of any misdemeanor or felony against them. In addition, the bill would require an insurer providing professional liability insurance to a chiropractor to report to the BCE of any settlement or arbitration award of over \$2,000 for certain damages.

Purpose of the Bill:

According to the Author, this bill is intended to increase consumer protection and provide the BCE with information in a timely manner to take appropriate action, if warranted.

Existing Law:

Certain entities within the Department of Consumer Affairs and the Department of Real Estate are required to provide information, excluding personal information, on the Internet relative to the status of every license issued. Insurers providing professional liability insurance to health care professionals are required to send reports to the appropriate licensing agency regarding any settlement or arbitration awards of \$3,000. Certain health care providers are required to report to the appropriate licensing agency the bringing of an indictment and/or information charging or conviction of a felony or misdemeanor against a licensee.

Specifically, this bill would:

- Add the BCE to the entities required to provide licensing status information.
- In addition to the licensing status information, the BCE would be required to provide, via the Internet, information on convictions of a misdemeanor or felony against a licensee.
- Require insurers providing liability insurance to report to the BCE any settlement or arbitration award over \$2,000 of a claim or action for damages for death or injury caused by the licensees' negligence, error, or omission in practice, or rendering of unauthorized professional services.

- Require a chiropractor to report to the BCE a bringing of an indictment, charging of a felony, or misdemeanor against the licensee, within 30 days from the date of an indictment or information of the charges. A licensee that fails to comply with the reporting requirement is subject to a fine not to exceed \$5,000.

Fiscal Impact:

The BCE currently provides licensing status information, suspensions, revocations, and other related enforcement actions, via the Internet. To provide information pertaining to misdemeanor or felony convictions would require additional programming, which would result in additional cost to the BCE in the amount of \$5,000. In addition, the BCE will experience an increase in workload associated with the review and, possible investigation of the settlement or arbitration reports received from insurance providers. However, the BCE staff believes this would not significantly increase workload, and should be able to be absorbed with existing staff.

Staff Recommendation:

The BCE staff recommends a watch position.